

Permanent Regulation - Filing Statement

A Regulation Relating to Water Quality Planning

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R128-12

Regulation R128-12: This regulation revises the dissolved oxygen (DO) standard for Gray Creek and the chloride standards for Smoke Creek, Bronco Creek and Gray Creek. As way of background, the State Environmental Commission (SEC) and Legislative Commission's Subcommittee to Review Regulations adopted revised water quality standards for Smoke, Bronco and Gray Creeks in 2010. However, the U.S. Environmental Protection Agency (US EPA) declined to act on the DO standard for Gray Creek and the chloride standards for all three creeks. EPA's inaction means that the revisions previously adopted for these parameters are not applicable for Clean Water Act purposes (i.e. 303(d) listing and State issued NPDES permits). To avoid confusion the Nevada Division of Environmental Protection (NDEP) has now proposed and the SEC has adopted revisions to the DO and chloride standards to match the current recommended USEPA criteria for the protection of aquatic life for these creeks.

1. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

On May 8, 9 and 16, 2012 the NDEP held workshops in Carson City, Las Vegas, and Elko on this regulation. There were two brief comments presented at the workshop, which was responded to by NDEP staff - details are posted under agenda item 5 at: http://www.sec.nv.gov/main/hearing_1012.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 11, 2012 at the Reno Office of the Nevada Department of Wildlife on Valley Rd. in Reno, Nevada. A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, and at NDEP Offices in Carson City and Las Vegas, at the Department of Wildlife in Reno, and at the Division of Minerals in Carson City.

Copies of the agenda, the public notice, and the proposed permanent regulation R128-12 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks

prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1012.htm

2. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended October 11, 2012 hearing: 20 (approx.)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected parties and responded to at the public workshops noted above. In addition, NDEP staff created and disseminated a 9 page rationale for the regulation that described the beneficial use standards proposed in the regulation. The rationale document is also posted under agenda item 5 at: http://www.sec.nv.gov/main/hearing_1012.htm.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted without changes.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional costs to the agency for enforcement of the proposed regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This regulation does not duplicate any other federal, state or local regulation.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is not more stringent than any federal regulation or guidance.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not address specific fees.